

<b>Application Number</b>	Application No.	Applicant(s)
	09/731,133	ITO ET AL.

<b>TERMINAL DISCLAIMER</b>	<input type="checkbox"/> APPROVED	<input checked="" type="checkbox"/> DISAPPROVED
Document Code - DISQ	This patent is subject to a Terminal Disclaimer	
<b>INTERNAL DOCUMENT – DO NOT MAIL</b>		

U.S. Patent and Trademark Office

## T.D. INFORMAL MEMO: DO NOT MAIL THIS MEMO TO APPLICANT

DATE: 08-Jun-05APPL. S.N.: 09/731,133TO: EXAMINER HO, TUAN VAN  
FROM: Jefferson, Henry  
PARALEGAL SPECIALISTART UNIT: 2612

Case Drop-Off Locatio

RETURN THIS MEMO TO:

JEF-2D68

SUBJECT: Decision on Terminal Disclaimer (T.D.) filed: 25-Apr-05

**INSTRUCTIONS:** I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this informal memo in your next Office action to notify applicant of the T.D. If you disagree or have any questions, please see me or the Special Program Examiner. **THIS IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE (1) MAILED TO APPLICANT OR (2) PLACED OF RECORD IN THE APPLICATION FILE.** When your action is complete, please initial, date and return this memo to me. **THANK YOU.**

- The T.D. is PROPER and has been recorded (see §14.23).
- The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below (see § 14.24):
  - The TD fee of   has not been submitted nor is there any authorization in the application file for the use of a deposit account (see § 14.26.07).
  - The T.D. does not satisfy Rule 321 in that the person who has signed the T.D. has not stated the extent of his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent (see §§ 14.26 & 14.26.01).
  - The T.D. lacks the enforceable only during common ownership clause – needed to overcome a non-statutory double patenting rejection, Rule 321(b) (see § 14.27.01).
  - The T.D. is directed to a particular claim(s), which is not acceptable since “the disclaimer must be for a terminal portion of the term of the entire patent to be granted” (MPEP 1490) (see §§ 14.26 & 14.26.02).
- The person who signed the T.D.:
  - is not an attorney “of record” (see §§ 14.29 and 14.29.01).
  - has failed to state his/her capacity to sign for the business entity (see § 14.28).
  - is not recognized as an officer of the assignee (see §§ 14.29 & possible 14.29.02).
- No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame number specified as to where such evidence is recorded in the Office (see 37 CFR 3.73(b) and 1140 O.G. 72). NOTE: This documentary evidence or specifying of the reel and frame number may be found in the T.D. or in a separate paper of record in the application (see § 14.30).
- The T.D. is not signed (see §§ 14.26 & 14.26.03).
- The serial number of the application (or the number of the patent) which forms the basis for the double patenting rejection is missing or incorrect (see § 14.32).
- The serial number of this application (or the number of the patent in reexam or reissue cases being disclaimed) is missing or incorrect (see §§ 14.26, 14.27.02 or 14.26.05).
- The period disclaimed is incorrect or not specified (see §§ 14.26, 14.27.02 or 14.26.03).
- Other:
- Suggestion to request refund (see § 14.36). NOTE: If already authorized, credit refund to deposit account and do not check this item.

I have appropriately notified applicant(s) of the status of the Terminal Disclaimer filed in this case.

Ex. Initials: \_\_\_\_\_ Date: \_\_\_\_\_

Log Date:

Special Program Database, Version 2.1

(Rev. 5/98)

Routing Slip Printed On:

Wednesday, June 08, 2005 9:11:14 AM



04-26703

PATENT  
450100-02880.2

## BEST AVAILABLE COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Yujiro ITO et al.  
Continuation of Serial No. : 09/731,133  
For : AUTO-FOCUS APPARATUS, FOCUS ADJUSTING METHOD,  
IMAGE CAPTURING APPARATUS AND IMAGE  
CAPTURING METHOD  
Filed : Together Herewith

745 Fifth Avenue  
New York, New York 10151  
Tel. (212) 588-0800

EXPRESS MAILMailing Label Number: EV196817105USDate of Deposit: April 25, 2005

I hereby certify that this paper or fee is being deposited with the  
United States Postal Service "Express Mail Post Office to  
Addressee" Service under 37 CFR 1.10 on the date indicated above  
and is addressed to: Commissioner for Patents, P.O. Box 1450,  
Alexandria, VA 22313-1450.

Barnet Shindman  
(Typed or printed name of person mailing paper or fee)

Bal Sela  
(Signature of person mailing paper or fee)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION (37 C.F.R. 1.321(b)) and STATEMENT UNDER  
37CFR 3.73(b)

Dear Sir:

The below-named attorney of record, authorized to act on the behalf of the  
assignee of record, hereby disclaims the terminal part of the entire patent granted on the above-  
identified application which would extend beyond the expiration date of the full statutory term of  
14/27/2005 WASFAN1 00000064 09731133

11 FC:1814

130.00 OP

00273983

the patent that issues from United States Application 09/731,133, the parent of the instant application (the "Parent"), and hereby agrees that any patent so granted shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to the Parent. This agreement is to run with any patent granted on the present application and to be binding upon the grantee, its successors or assigns. The undersigned further states that 100% of the title to the present application is in Sony Corporation, a Japanese corporation, by virtue of an assignment from the inventors. The assignment was recorded on December 6, 2000 at reel 011348, frame 0912 of the Parent.

The evidentiary documents accompanying or referred to in this Terminal Disclaimer have been reviewed by the undersigned and it is certified that to the best of the undersigned's knowledge and belief, title is in the assignee seeking to take action.

The below-named attorney of record does not disclaim any terminal part of any patent granted on the above-identified application prior to the expiration date of the full statutory term of the Parent, in the event that: the Parent later expires for failure to pay a maintenance fee; is held unenforceable; is found invalid; is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321(a); or is otherwise terminated prior to expiration of its statutory term, except for the separation of legal title stated above.

**BEST AVAILABLE COPY**

PATENT  
450100-02880.2

Please charge any insufficient fees or credit any overpayment associated with this

Terminal Disclaimer to Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP

By: Thomas F. Presson  
Thomas F. Presson  
Reg. No. 41,442  
(212) 588-0800